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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 28th December, 1968/Pausa 7, 1890 (Saka)

The following Act of Parliament received the assent of the President on the 28th December, 1968 and is hereby published for general information:—

THE FOOD CORPORATIONS (AMENDMENT) ACT, 1968

No. 57 OF 1968

[*28th December, 1968*]

An Act to amend the Food Corporations Act, 1964 and to declare the Central Government as the appropriate Government under the Industrial Disputes Act, 1947, in relation to the Food Corporation of India.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. This Act may be called the Food Corporations (Amendment) Act, 1968. Short title.

Insertion of new section 12A.

2. After section 12 of the Food Corporations Act, 1964, the following section shall be inserted, namely:— 37 of 1964.

Special provisions for transfer of Government employees to the Corporation in certain cases.

"12A. (1) Where the Central Government has ceased or ceases to perform any functions which under section 13 are functions of the Corporation, it shall be lawful for the Central Government to transfer, by order and with effect from such date or dates (which may be either retrospective to any date not earlier than the 1st January, 1965, or prospective) as may be specified in the order, to the Corporation any of the officers or employees serving in the Department of the Central Government dealing with food or any of its subordinate or attached offices and engaged in the performance of those functions:

Provided that no order under this sub-section shall be made in relation to any officer or employee in such Department or office who has, in respect of the proposal of the Central Government to transfer such officer or employee to the Corporation, intimated within such time as may be specified in this behalf by that Government, his intention of not becoming an employee of the Corporation.

(2) In making an order under sub-section (1), the Central Government shall, as far as may be, take into consideration the functions which the Central Government has ceased or ceases to perform and the areas in which such functions have been or are performed.

(3) An officer or other employee transferred by an order made under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Central Government and become an employee of the Corporation with such designation as the Corporation may determine and shall, subject to the provisions of sub-sections (4), (5) and (6), be governed by the regulations made by the Corporation under this Act as respects remuneration and other conditions of service including pension, leave and provident fund, and shall continue to be an officer or employee of the Corporation unless and until his employment is terminated by the Corporation.

(4) Every officer or other employee transferred by an order made under sub-section (1) shall, within six months from the date of transfer, exercise his option in writing to be governed,—

(a) by the scale of pay applicable to the post held by him under the Government immediately before the date of

transfer or by the scale of pay applicable to the post under the Corporation to which he is transferred,

(*b*) by the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules and orders of the Central Government as amended from time to time or the leave, provident fund or other terminal benefits admissible to the employees of the Corporation under the regulations made by the Corporation under this Act,

and such option once exercised shall be final:

Provided that the option exercised under clause (*a*) shall be applicable only in respect of the post to which such officer or employee is transferred to the Corporation and on appointment to a higher post under the Corporation, he shall be eligible only for the scale of pay applicable to such higher post:

Provided further that if immediately before the date of his transfer any such officer or employee is officiating in a higher post under the Government either in a leave vacancy or in any other vacancy of a specified duration, his pay, on transfer, shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which he would have reverted or to the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt:

Provided also that when an officer or other employee serving in the Department of the Ministry of the Central Government dealing with food or in any of its attached or subordinate offices is promoted to officiate in a higher post in the Department or office subsequent to the transfer to the Corporation of any other officer or employee senior to him in that Department or office before such transfer, the officer or other employee who is promoted to officiate in such higher post shall, on transfer to the Corporation, be entitled only to the scale of pay applicable to the post he would have held but for such promotion or the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt.

(5) No officer or other employee transferred by an order made under sub-section (*1*),—

(*a*) shall be dismissed or removed by an authority subordinate to that competent to make a similar or equivalent appointment under the Corporation as may be speci-

fied in the regulations made by the Corporation under this Act;

(b) shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such inquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making a representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry:

Provided that this clause shall not apply,—

(*i*) where an officer or employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge; or

(*ii*) where the authority empowered to dismiss or remove an officer or employee or to reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry; or

(*iii*) to an officer or employee who, after transfer to the Corporation, is appointed to a higher post under the Corporation in response to an open advertisement and in competition with outsiders.

(6) If, in respect of any such officer or employee as aforesaid, a question arises whether it is reasonably practicable to hold such inquiry as is referred to in sub-section (5), the decision thereon of the authority empowered to dismiss or remove him or to reduce him in rank shall be final.

(7) Nothing contained in sub-section (*1*) shall apply to the members of the Central Secretariat Service or any other service or to persons on deputation to the Department referred to in that sub-section or to any of its attached or subordinate offices from any Ministry of the Central Government or from any State Government or from any organisation.".

V. N. BHATIA,
Secy. to the Govt. of India.

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